

Equal Employment Opportunity Comm.

§ 1620.32

§ 1620.29 Relationship to other labor laws.

If a higher minimum wage than that required under the FLSA is applicable to a particular sex pursuant to State law, and the employer pays the higher State minimum wage to male or female employees, it must also pay the higher rate to employees of the opposite sex for equal work in order to comply with the EPA. Similarly, if overtime premiums are paid to members of one sex because of a legal requirement, such premiums must also be paid to employees of the other sex.

§ 1620.30 Investigations and compliance assistance.

(a) As provided in sections 9, 11, 16, and 17 of the FLSA, the Commission and its authorized representatives under the Act may (1) investigate and gather data; (2) enter and inspect establishments and records, and make transcriptions thereof, and interview individuals; (3) advise employers regarding any changes necessary or desirable to comply with the Act; (4) subpoena witnesses and order production of documents and other evidence; (5) supervise the payment of amounts owing pursuant to section 16(c) of the FLSA; (6) initiate and conduct litigation.

(b) The General Counsel, District Directors, Washington Field Office Director, and the Program Director, Office of Program Operations, or the designees of any of them are hereby delegated authority to exercise the powers enumerated in paragraphs (a) (1), (2), (3), and (5) of this section and to serve subpoenas. The General Counsel is delegated authority to seek preliminary relief under the Act. The General Counsel is hereby delegated authority to initiate other litigation at the direction of the Commission and to conduct such litigation.

(c) The identity or identifying details of persons giving information in confidence as to violations of the Act shall not be disclosed unless necessary in a court proceeding.

[46 FR 4888, Jan. 19, 1981, as amended at 47 FR 46276, Oct. 18, 1982; 50 FR 30700, July 29, 1985. Redesignated at 51 FR 29819, Aug. 20, 1986, and amended at 54 FR 32063, Aug. 4, 1989]

§ 1620.31 Issuance of subpoenas.

(a) With respect to the enforcement of the Equal Pay Act, any member of the Commission shall have the authority to sign a subpoena requiring:

(1) The attendance and testimony of witnesses;

(2) The production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(3) Access to evidence for the purposes of examination and the right to copy.

(b) There is no right of appeal to the Commission from the issuance of such a subpoena.

(c) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize the provisions of sections 49 and 50 of title 15 of the United States Code to compel enforcement of the subpoena.

[46 FR 4888, Jan. 19, 1981. Redesignated at 51 FR 29819, Aug. 20, 1986]

§ 1620.32 Recordkeeping requirements.

(a) Employers having employees subject to the Act are required to keep records in accordance with U.S. Department of Labor regulations found at 29 CFR part 516 (Records To Be Kept by Employers Under the FLSA). The regulations of that part are adopted herein by reference.

(b) Every employer subject to the equal pay provisions of the Act shall maintain and preserve all records required by the applicable sections of 29 CFR part 516 and in addition, shall preserve any records which he makes in the regular course of his business operation which relate to the payment of wages, wage rates, job evaluations, job descriptions, merit systems, seniority systems, collective bargaining agreements, description of practices or other matters which describe or explain the basis for payment of any wage differential to employees of the opposite sex in the same establishment, and which may be pertinent to a determination whether such differential is based on a factor other than sex.

(c) Each employer shall preserve for at least two years the records he makes of the kind described in